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ABSTRACT

The 1975 Code of Faculty Responsibility is part of the University Regulations, and, as such, has the force and effect of law at the University of Utah. The code contains general provisions; academic rights of faculty members; ethical canons governing faculty conduct with regard to duties to students, his professional obligations, obligations to the university and as a citizen; general rules regarding duties to students, professional obligations, obligations to the university; procedures, sanctions; and termination. (JMF)

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University of Utah CODE of faculty responsibility

HE 007 262

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UNIVERSITY OF UTAH

CODE OF FACULTY RESPONSIBILITY
UNIVERSITY REGULATIONS — CHAPTER XII

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September 1, 1975

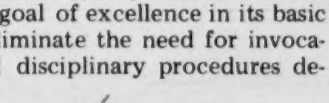
To All Members of the Campus Community:

The University of Utah enjoys a distinguished tradition of commitment to excellence in higher education and research within a climate of academic freedom for faculty and students alike. I am confident that we all share in a commitment to the continuation of that tradition. I am firmly convinced that our mutual obligation within the University is to assure that appropriate conditions for learning will occur here, where respect for others and a tolerance of competing ideas can be nurtured and issues examined with a clear edge given to intellect rather than to passion.

In the changing world of higher education, however, it is increasingly clear that both individual and institutional responsibility and freedom are entangled as never before. Recognizing that reality, the Utah State Board of Regents in January 1975 approved the Code of Faculty Responsibility, previously approved by the University Senate and the University of Utah Institutional Council. This document, which represents the combination of more than three years of effort within the University community, codifies

the obligations of faculty members and establishes procedures to assure their observance.

The Code of Faculty Responsibility comprises Chapter XII of *University Regulations*, and therefore has the force and effect of law. In this regard, it should be read as a companion to Chapters VI and VII (which establish the legal basis for the University's system of academic freedom and tenure), Chapter IX (the University Speaker Policy), and Chapter X (the Student Code). I sincerely hope that the campus community, and in particular all members of the faculty, will become familiar with the provisions of the Code of Faculty Responsibility and will unite in voluntary good faith efforts to make those provisions fully effective. Wholehearted commitment to that end by all concerned will not only contribute measurably to achievement of the University's goal of excellence in its basic mission, but will eliminate the need for invocation of the formal disciplinary procedures described in the code.



David Pierpont Gardner
President

PREAMBLE

The document which follows is a code of responsibility adopted by the faculty of the University of Utah.

For the purposes of this document, the expression "the university" refers to the University of Utah, an institution of higher learning and research, chartered by the State of Utah and governed under the authority of an Institutional Council and the State Board of Regents. It is a corporate entity, consisting essentially of a faculty, a student body, and an administration. Thus, when reference is made to the university, it should be understood that, as the context indicates, either the corporate entity itself or a designated element of it is intended.

The university is not just a corporate body created by operation of law. It is also a community of people associated in activities related to thought, truth, and understanding. It must therefore be a place where the broadest possible latitude is accorded to innovative ideas and experiments, where independence of thought and expression are not merely tolerated but actively encouraged. Because thought and understanding flourish in a climate of intellectual freedom, because the pursuit of truth is primarily a personal enterprise, a code of faculty responsibility must be strongly anchored to principles of intellectual freedom and personal autonomy. This code should be interpreted and applied with these principles firmly in mind.

Because of the changing political, social, and economic realities of our time, universities have tended to become large corporate entities, numbering their memberships in tens of thousands, engaging in more and more complex relationships with their sustaining constituencies. The traditional ideal of a university as a community of scholars, dispassionately seeking truth for its own sake, has been subjected to severe criticism both on and off the campus.

Whatever there is of value in the concept of the community of scholars must be retained. And whatever is worthwhile in the notion of the corporate enterprise must be preserved, without the

sacrifice of academic integrity. The relationship between the university and its faculty should be one of shared confidence, mutual loyalty, and trust. Dealings should be conducted with courtesy, decency, and a concern for the personal dignity and shared human values which exist between joint venturers in academic enterprise. To achieve these ends, it seems useful to restate the responsibilities and rights of membership in the faculty of the university, and the following code constitutes an effort to meet that need.

The parts which follow this preamble include a statement of faculty rights, and a series of ethical canons to which members of the faculty can be expected to aspire. In addition, there is included a list of rules of conduct and a set of procedures for their enforcement. The rules are intended as minimal standards of behavior, designed to assure fair and reasonable disposition of rare and episodic occurrences of faculty misconduct. Consistent and enthusiastic pursuit of the first set of objectives should make the rules of conduct superfluous.

PART I

GENERAL PROVISIONS

1. The standards of conduct set forth in this code are stated in terms of ethical canons and rules. The ethical canons state precepts of aspiration; breaches of their provisions are not a basis for disciplinary sanctions. Violations of the rules are sanctionable. Conduct which is not in violation of a rule of this code is not subject to disciplinary sanction under this code.

2. The terms "he," "him," and "his" in this code are used for grammatical convenience, to include both men and women.

3. As used in this code, the term "faculty member" includes a person employed by the university, as the president, vice president, director of libraries, dean, professor, associate professor, assistant professor, and instructor, including a person holding an adjunct, clinical, research, or visiting position in any such rank, whether or not he is

employed by the university in a full-time capacity. All provisions of this code apply to faculty members.

4. A person who is not a faculty member as defined in 3. above is not subject to disciplinary sanctions under this code.

5. A faculty member must comply with all university rules and regulations specifying his obligations as a faculty member and as a member of the university community generally. However, a faculty member may not be subject to sanctions involving fine, suspension, or dismissal from employment for failure to fulfill an obligation imposed by any other regulation or published rule of the university unless his conduct also violates a rule of this code or the obligation has been specifically and personally pointed out to the faculty member by his department chairman, dean, or other college or university administrator prior to the occasion for which he is charged with violating such rule or regulation.

6. The university endorses the American Association of University Professors statement on resignations (1929), Statement of Principles on Academic Freedom and Tenure (1940), and Statement of the Academic Freedom of Students (1965). See *University Regulations*, Chapter VII, Section 1.

PART II

ACADEMIC RIGHTS OF FACULTY MEMBERS

1. A faculty member has the legal rights and privileges of a citizen. He may not be subject to punishment or reprisal for the exercise of such rights and privileges. He may be subject to sanctions for breach of rules, enumerated in this code.

   a. Every faculty member has the right to academic freedom and the right to examine and communicate ideas by any lawful means even should such activities generate hostility or pressures against the faculty member or the university.

b. A faculty member's exercise of freedom of communication, association, or assembly, or his participation in political activities does not constitute a violation of duty to the university, his profession, or his students, except in situations specified in the rules of this code.

2. Where his rank and status are appropriate, a faculty member has the right to vote on faculty appointments, promotions, and tenure and to vote for representatives to college and university legislative bodies.

3. In any disciplinary matter, a faculty member has a right to adequate notice, to be heard, and to decision and review by impartial persons or bodies. In disciplinary proceedings involving possibility of substantial sanctions, a faculty member has a right to full due process and peer judgment.

4. Faculty members are entitled to support and assistance from the university in maintaining a climate suitable for scholarship, research, and effective teaching and learning. A faculty member is entitled to a classroom free from violence or systematic disruption. The university shall strive to assist the faculty member in improving his skills and developing his talents as teacher and scholar.

PART III

ETHICAL CANONS

A. The Basic Aspiration

A faculty member is primarily a teacher and a scholar. There are many models of effective teaching. All share a common goal: to inspire the student to thought and careful judgment, and to create in him a hunger for knowledge and an appreciation for skill and learning.

There are also many models for effective scholarship, including dogged research for long hours in libraries and laboratories and intuitive inspiration in the early morning hours at a desk in one's home. This code recognizes that there can be no procrustean bed for teaching and learning;

that above all the single overriding canon is: be excellent and inspire excellence in others.

B. Duties to Students

University teaching should reflect consideration for the dignity of students and their rights as persons. Students as well as faculty are entitled to academic freedom and autonomy in their intellectual pursuits and development. The teacher must therefore treat students with courtesy and respect. He must not require students to accept his personal beliefs or opinions. The teacher should be regular and punctual in meeting classes and accessible to students outside of class. He must strive in the classroom to maintain a climate conducive to thinking and learning. He should be attentive to student questions and responses. He should be fair in his demands and in his evaluations of student performance. He must not misuse his position, authority, or relationship with students for personal or pecuniary gain.

C. Professional Obligations

A faculty member should seek knowledge and value the pursuit of truth. He should strive to contribute to his discipline by adding thereto the product of his own efforts and by supporting and encouraging the efforts of others. A faculty member should maintain and improve his effectiveness as teacher and scholar.

D. Obligations to the University

A faculty member's position is one of trust and responsibility to the university and the students, faculty, and staff who constitute the university community. A faculty member should merit such trust and responsibility by devoted service. He should strive to maintain and improve the academic quality of his department, college, and the university. When called upon to serve in administrative posts or on committees, a faculty member should strive to achieve the legitimate purposes of the university with due consideration for the interests of other persons involved.

E. Obligations of Citizenship

Faculty members share the general legal duties of citizenship. A faculty member who violates

state or federal law may expect no immunity or special protection by reason of his faculty status. As with other citizens, breaches of legal duty by faculty members are matters for disposition by the legal system. Because the university community has no special expertise in legal matters and because university action could complicate and hamper action by the courts and civil authorities, the university will not commence disciplinary proceedings for violations of law not directly relating to the university. The university reserves the right to bring proceedings against faculty members who are charged with unlawful conduct which also constitutes a violation of a rule of this code, where the violation of the rule raises a substantial question of the faculty member's ability or willingness to perform his duties to the university.

PART IV

RULES

A. Duties to Students

1. Failure to meet scheduled classes without prior notice to students is excusable only for reasons beyond the control of the faculty member. Alteration of schedules, cancellation or rescheduling of classes may be done only for valid reasons and after adequate notice to students, and to the department chairman or dean.

2. A faculty member must maintain regular office hours during which he is available for consultation with his students or otherwise assure his accessibility to his students.

3. A faculty member must, at the beginning of a course, give reasonable notice to students of the general content of the course, what will be required of the students, and the criteria upon which he will evaluate their performance. Evaluations must be performed promptly, conscientiously, without prejudice, or favoritism, and consistently with the criteria stated at the beginning of the course. The criteria for evaluating student performance must relate to the legitimate academic purposes of the course.

4. While relevance and manner of communicating course content are judgmental matters, a faculty member must not misuse the classroom by preempting substantial portions of the class time for the presentation of his own views on topics unrelated to the subject matter of the course. Where the faculty member finds it pedagogically useful to advocate a position on controversial matters, he must exercise care to assure that opportunities exist for students to consider other views. The faculty member must not reward agreement or penalize disagreement with his views on controversial opics.

5. A faculty member must not use his position, authority, or relationship with students to obtain uncompensated labor for his own personal or pecuniary gain. He may not ask students to perform services unrelated to legitimate academic requirements of a course unless the student is adequately compensated for such services. A faculty member must not solicit gifts or favors from students; he must not accept gifts or favors where he has reason to believe that such gift or favor is motivated by a desire to secure some academic advantage.

6. A faculty member must not plagiarize the work of a student; where a faculty member and a student work together, appropriate credit must be given to the student. A faculty member may not limit or curtail the right of a student to publish or otherwise communicate the result of the student's own scholarly activities.

7. A faculty member must not reveal matters told to him in confidence by a student, except as required by law. Personal matters relating to a student must not be revealed by a faculty member except to persons entitled to such information by law or university regulations. A faculty member may, however, report his assessment of a student's academic performance and ability to persons making legitimate inquiry.

8. A faculty member shall engage in reasonable and substantial preparation for the teaching

of courses assigned to him, consistent with their scope and nature and appropriate to the educational objectives sought to be achieved.

B. Professional Obligations

1. A faculty member must not plagiarize or permit the appearance that he is the author of work done by others.

2. When a faculty member serves as supervisor of the professional work of other persons, he must not exploit his position for personal or pecuniary gain.

3. When a faculty member is engaged in joint research or other professional effort with colleagues, he must exercise reasonable care to discharge his agreed obligations to them.

4. When a faculty member's commitments to the university include research, publication, or other professional endeavors, he must exercise reasonable care to discharge his agreed commitments.

5. When reporting the results of his research or professional activities, a faculty member must be honest in the presentation of his research data and in the description of his work.

6. A faculty member shall exercise reasonable efforts to keep himself informed and knowledgeable about developments in the academic areas to which his teaching assignments relate.

C. Obligations to the University

1. A faculty member must not misappropriate university property. He must not use university property or facilities for pecuniary gain, or for personal advantage, if the use of such property or facilities has no legitimate relationship to the faculty member's academic service and such use causes more than trivial cost to the university or provides more than trivial advantage to the faculty member. For purposes of this section, professional activities which serve to maintain or improve a faculty member's academic skills and which

do not violate university restrictions on outside activities have a legitimate relationship to the faculty member's academic service.

2. A faculty member must comply with current university regulations restricting the amount of time he may spend on nonuniversity commitments, outside consulting or other nonuniversity employment. He must also comply with state law and university regulations relating to conflicts of interest.

3. A faculty member must avoid exploiting the university's name or his own relation with the university for personal reasons unrelated to his legitimate academic or professional activities. He must not intentionally create the impression, in public appearances or statements, that he is representing the university, unless in fact, he is.

4. A faculty member must not maliciously destroy university property, purposely disrupt university programs, purposely inflict physical injury on other persons on campus, or purposely interfere with the legitimate activities of other persons on the university campus. A faculty member must not purposely and unlawfully incite others to engage in such destruction, disruption, injury, or interference. Provided, however:

   a. Nonviolent reaction from members of an audience at a meeting or program open to the public shall not be considered disruption or interference with legitimate activities unless such reaction is done for the purpose of preventing the continuation of the meeting or program and such reaction has a reasonable likelihood of accomplishing such purpose.

   b. Mere advocacy or expression shall not be considered incitement unless the advocacy or expression poses a clear and present danger of the imminent occurrence of such destruction, disruption, injury, or interference.

5. A faculty member must not unlawfully discriminate against anyone on the basis of

race, religion, sex, citizenship, national origin, or political beliefs in making decisions or recommendations concerning admissions, employment, promotion, retention, tenure, or other professional matters.

6. A faculty member must not purposely mislead the university by falsely asserting facts relevant to his qualifications as faculty member or his eligibility for university benefits.

7. A faculty member must not knowingly use in violation of state or federal law university property which has been entrusted to his care.

PART V

PROCEDURES

1. As a public institution, the university is open to comments and criticisms from students and other interested citizens. Specific complaints should be directed to appropriate university officials.

   a. A student who is concerned about academic matters should discuss his concern with the faculty member involved or with the chairman of the faculty member's department. When a student is not satisfied by his discussion with the faculty member or the department chairman, or if such discussion seems inappropriate because of the nature of the student's concern, he may submit a complaint of infraction of a specified rule, or rules, in this code to the appropriate college dean or to the vice president for academic affairs.

   b. An individual who is not a student, but who believes that a faculty member has violated this code, may submit a complaint of infraction of a specified rule, or rules, in this code to the appropriate college dean, to the vice president for academic affairs, or to the president.

2. When the dean, the vice president for academic affairs, or the president believes that

a complaint against a faculty member warrants further consideration, the vice president for academic affairs shall confer with the dean and the appropriate department chairman to determine the response which should be made consistent with the provisions of this part.

3. Six university counselors shall be elected by the faculty members of the University Senate to serve as neutral advisors and mediators to the president or his delegate and to a faculty member accused of violating provisions of this code. The counselors shall elect a chairman from among themselves. Counselors shall be elected for two-year terms.

4. The Faculty Hearing Committee is the hearing body for proceedings under this code. For purposes of such proceedings, an elected student component shall serve with the committee as hereafter provided.

   a. The Faculty Hearing Committee shall consist of fifteen faculty members elected by the faculty members of the University Senate for three-year terms. Administrators with faculty appointments are eligible for election, but faculty members not holding administrative positions shall constitute a majority of the Faculty Hearing Committee and a majority of any committee or panel drawn from the Faculty Hearing Committee and convened to hear charges against a faculty member.

   b. Hearings before the committee shall be hearings before nine faculty members thereof or six faculty members and three members of the student component.

   c. The Faculty Hearing Committee may adopt rules of procedure supplementing the provisions of this part.

5. The student component of the Faculty Hearing Committee shall consist of six students, elected by the ASUU Assembly for one-year terms. Members of the student component of the Faculty Hearing Committee shall have full rights of debate and vote

when serving on the committee or a panel thereof in a proceeding under this code.

6. Suspension is the barring of a faculty member from the exercise of his duties for a definite period of time imposed as a sanction under this code.

7. Dismissal means termination for cause other than medical reasons or financial exigency. Termination is the ending of employment of a tenured faculty member at any time or the ending of employment of a nontenured faculty member other than by nonrenewal of his contract.

8. Suspension or dismissal may be imposed only for violation of rules of this code and only if such violation relates directly and substantially to the fitness of the faculty member in his professional capacity as a teacher or researcher. Suspension or dismissal may be imposed only in accordance with the provisions of this part.

Major Sanctions

9. The president or his delegate shall, after consultation with a faculty member's dean and department chairman, determine whether formal proceedings shall be brought against a faculty member. If the president or his delegate determines that formal proceedings shall be brought, he shall appoint a representative to act on behalf of the administration in such proceedings.

10. Proceedings shall be commenced by a written notice to the faculty member of the commencement of such proceedings, together with a short and plain statement of the charge against him, including a statement of the rule or rules he is alleged to have violated. The notice shall also state the faculty member's right to a conference with the administration representative; the faculty member's right to have counsel present at such conference; and the faculty member's right to services of a university counselor.

11. Within twenty days after notice is given to the faculty member of the charges against him, the administration representative shall schedule a conference with the faculty member. Such conference shall be for the purpose of discussing the charges, any other matters which the faculty member wishes to present, and possible disposition of the charges by settlement. Both the faculty member and the administration representative may be represented by counsel at the conference. Either party may request the presence at the conference of a university counselor, selected by the chairman of the University Counselors Committee to participate in the case.

12. When either party has requested the participation of a university counselor, the counselor selected shall, before the conference, meet separately with the administration representative and the faculty member, unless the faculty member declines such a separate meeting. In the separate meetings and at the conference, the role of the counselor shall be that of neutral mediator endeavoring to find, by discussion and advice, a resolution of the proceedings in the best interests of both the university and the faculty member.

13. If, following the conference, a settlement is reached acceptable to the administration representative and the faculty member, the proceedings shall be terminated and a disposition made by the president of the university in accordance with such settlement. In the event that no settlement is reached the university representative shall forward the charges to the faculty member and to the chairman of the Faculty Hearing Committee for hearing by the committee.

14. The chairman of the Faculty Hearing Committee shall determine, after consultation with the faculty member, the administration representative, and the university counselor, whether the charges allege a direct breach of rules relating to duties to students under Part IV of this Code. If the chairman so determines, five faculty mem-

bers and three members of the student component will serve with the chairman to hear the charges; otherwise, the chairman and eight faculty members will hear the charges.

15. A hearing on the charges shall be scheduled not less than ten nor more than thirty days after the conference, but such hearing may be adjourned for a reasonable additional time at the request of the faculty member or for other good cause. The members of the Faculty Hearing Committee to hear the case will be selected by lot after excluding any member who disqualifies himself for bias or interest in the case. At the commencement of the hearing, each party may challenge two members of the committee (including student members) without stating cause and any number of members for cause. Challenges for cause shall be heard by the members other than those challenged by either side. In the event that all members of the committee are challenged for cause, rulings on the challenges shall be made by the chairman of the University Counselors Committee.

16. If a member of the committee is challenged or is otherwise ineligible or unable to serve, an alternate member shall be selected by lot from the committee as replacement. Replacements for members of the student component shall be students. Alternate members selected as replacements may be challenged only for cause if the challenging party has already exercised his other challenges.

17. The faculty member has a right to be represented by any person as academic advisor and by counsel of his choice at all stages of the proceedings. At all hearings the faculty member shall have the right to confront and cross-examine the witnesses against him, to present evidence and call witness in his own behalf, to testify if he chooses or remain silent and to be present with his counsel at all meetings and proceedings of the committee except sessions which are closed for deliberation and vote.

18. The committee may, with the consent of the parties, hold a joint prehearing meeting with the parties in order to simplify the issues, effect stipulations of facts, and achieve such other appropriate prehearing objectives as will make the hearing fair, effective, and expeditious.

19. At or before the commencement of the hearing, the administration representative and the faculty member or his counsel shall make available to each other upon request a list of their witnesses to be called and a list of documents to be offered for consideration by the committee. Upon request, either party shall allow the other to examine all such documents and any written statements in his possession or available to him that were made by witnesses listed by either party. For purposes of this section a written statement includes a written or electronic transcription or recording of an oral statement.

20. Upon request by either the administration representative or the faculty member, the committee shall order the production of relevant university records and shall request witnesses to appear and testify. Compliance with such request is an obligation of employment of any university official or employee except that the privilege against self-incrimination and privileges of confidentiality of communication or records recognized either by law or published university regulations shall be honored by the committee.

21. Hearings shall be closed to the public unless the faculty member requests that they be open and the committee determines, following such request, that an open hearing will not prejudice the interests of either the university or the faculty member. Where an open hearing is requested by the faculty member but such request is denied, the specific reasons for denial shall be stated in the record. In any hearing, however, the faculty member shall have the right to the presence of not more than three persons designated by him as observers. At the request of

either party or the committee, a representative of a responsible educational association shall be permitted to attend the proceedings as an observer.

22. a. A verbatim record of the hearing or hearings will be taken and a typewritten copy will be made available to the faculty member without cost to him, at his request.

    b. The burden of proof that adequate cause exists rests with the administration representative and shall be satisfied only by clear and convincing evidence in the record considered as a whole.

    c. The committee will grant adjournments to enable either party to investigate evidence to which a valid claim of surprise is made.

    d. The committee will not be bound by strict rules of legal evidence, and may admit any evidence which is of probative value in determining the issues involved. Every possible effort will be made to obtain the most reliable evidence available.

    e. The findings of fact and the decision will be based solely on the hearing record.

    f. Except for such simple announcements as may be required, covering the time of the hearing and similar matters, public statements and publicity about the case by either the faculty member or administrative officers will be avoided as far as possible until the proceedings have been completed.

23. Committee deliberations and voting shall be closed sessions from which all other persons are excluded. Upon request of any member of the committee, votes shall be taken by secret written ballot. A two-thirds majority of members present shall be required for decision on findings and sanctions. The chairman shall be entitled to vote on all questions.

24. If, following the hearing, the committee finds that the faculty member violated a rule of this code and that such violation was sufficiently serious to warrant sanctions, the committee shall impose the sanctions authorized by this code that it deems appropriate under the entire circumstances of the case. The faculty member and the administration representative shall be promptly informed in writing of the committee's decision. The committee's decision shall be binding on the university and the faculty member except that the faculty member may appeal the decision to the president of the university.

25. Appeals to the president shall be made in writing within thirty days of the date of the written decision of the hearing body.

    a. Where the faculty member alleges in his appeal that the hearing procedure or the sanction violated his academic freedom, the president shall refer the appeal to the Academic Freedom and Tenure Committee for consideration. If the Academic Freedom and Tenure Committee determines that a substantial question of academic freedom is raised by the appeal, it shall make such review as it determines to be appropriate. Following its review, it shall report its findings to the president. If the Academic Freedom and Tenure Committee determines that no substantial question of academic freedom is raised, it shall so report to the president.

    b. Where no allegation of a violation of academic freedom is made in the appeal, or following receipt of the report of the Academic Freedom and Tenure Committee when such allegation is made, the president shall review the findings of the hearing body. The president may decrease the sanction imposed or may, if the faculty member consents, order a different or substitute sanction. The president shall be bound by the decision of the hearing body on all issues other than the sanction imposed unless he

finds that there is no substantial basis in the record to support the hearing body's decision.

c. The decision of the president shall be final, unless the Institutional Council, on petition filed with the secretary of the Council within fifteen days after written notice has been given of the president's decision, chooses in its discretion to review the president's decision. Review by the Council shall be limited to a review of the record only for the purpose of determining if procedural due process has been observed.

26. The foregoing provisions shall not be construed to limit in any way the power of the Academic Freedom and Tenure Committee to initiate an inquiry into any matter which that committe believes may involve violations of academic freedom at the university.

Minor Sanction

27. If a faculty member's dean and department chairman after consultation together and with the president or his delegate, believe that a faculty member has violated a rule of this code and such violation warrants the imposition of a sanction not greater than a written reprimand, the dean or department chairman shall notify the faculty member of the basis of the proposed sanction and provide him with an opportunity to meet with the dean or department chairman to persuade him that the proposed minor sanction should not be imposed. After such meetings, the faculty member shall be notified promptly in writing of the dean's or department chairman's decision.

28. If a faculty member believes that the written reprimand has been unjustly imposed by his dean or department chairman, he may request a review of the matter by a panel of the Faculty Hearing Committee. Such request must be made in writing to the chairman of the committee within thirty days after the faculty member receives the written notice of the dean's or department chairman's decision. When a timely request

for review has been filed, the sanction decision shall not become effective until the review procedures have been completed, and then only to the extent that the sanction has not been modified or rescinded or superseded by an agreed settlement.

29. Upon receipt of a written request for review, the chairman of the Faculty Hearing Committee shall select by lot a panel of three members, two of whom must be faculty, from the committee to consider the faculty member's request.

30. The panel shall provide the faculty member with the opportunity to appear before it and to submit a detailed written statement if he desires to do so. The panel shall decide whether or not the facts merit a detailed investigation. Submission of a request for review shall not automatically entail an investigation. The panel may seek to bring about a settlement of the matter and may, with the consent of the parties, refer the matter to a member of the University Counselors Committee for mediation and possible settlement by consent.

31. If settlement is not possible or appropriate, the panel may decide to hold a hearing on the matter. Such hearing shall be informal but shall provide the faculty member and a representative selected by the dean or department chairman with the rights to be present, to be represented by counsel, to be heard, to present evidence, and to cross-examine witnesses.

32. The panel shall report its findings and recommendations in writing to the faculty member, the dean, and the department chairman, and to the president or his delegate. If the panel determines that the written reprimand is unjust or otherwise inappropriate, such sanction shall be rescinded by the dean or the department chairman who imposed it.

Records of Complaints

33. A faculty member has the right upon request to examine university records main-

tained or retrievable under his name or identifying number relating to complaints of misconduct and proceedings under this code.

34. Records of complaints and proceedings under this code shall be confidential. They shall be open to inspection only by the president, administrative officers to whom the president delegates, in writing, the power to inspect such records, and the faculty member to whom such records relate. Other persons shall not be permitted to examine such records except as required by law.

PART VI
SANCTIONS

1. The following sanctions in order of generally increasing severity are authorized by this code:

   a. written reprimand
   b. fine (not exceeding 2 percent of the faculty member's annual salary)
   c. probation (not exceeding one year)
   d. suspension without pay, or with partial pay (not exceeding one year)
   e. dismissal

   Combinations of sanctions may be imposed where appropriate and consistent with the provisions of sections 2 through 4 of this part. When a sanction less than dismissal is imposed, the terms of imposition may include a requirement that the faculty member take reasonable action to remedy or to make restitution for a situation created by his violation of a rule.

2. Sanctions may be imposed on a faculty member when it has been determined by proceedings pursuant to this code that he has violated a rule of this code, if the imposition of sanctions will serve one or more of the following purposes:

   (a) To induce self-improvement and reform by a faculty member whose conduct demonstrates the need for reform and self-improvement.

b. To indicate to the faculty member the seriousness of his violation and thereby deter him from future violations.

c. To reassure the university community that violations of the rule which the faculty member has broken will not be tolerated, thereby serving to maintain respect for and commitment to the rules by other members of the university community.

d. To dismiss from university employment a faculty member who has demonstrated by his conduct an inability or an unwillness to meet his responsibilities to the university.

3. Sanctions being at best a painful necessity, the decision to impose sanctions should be guided by mercy and restraint. No sanction shall be imposed unless:

   a. The purposes set forth in 2 above cannot be adequately served by less severe measures;

   b. The sanction is not disproportionately severe in relationship to the rule violation for which it is imposed; and

   c. The imposition of such sanction is fair and just to the faculty member involved, giving due consideration to his situation, to his prior service to the university, and to any relevant matters tending to mitigate the seriousness of his violation.

4. When nonpunitive measures such as guidance, counseling, therapy, leave of absence, voluntary resignation, or early retirement are available and will provide reasonable assurance that the faculty member will not repeat his violation of the rule, and if the faculty member consents thereto, such measures should be taken in lieu of disciplinary sanctions under this code unless substantial university interests would thereby be undermined.

5. Dismissal may be imposed as a sanction only upon a finding that a faculty member has violated this code by conduct which

demonstrates that he lacks the ability or willingness to meet his responsibilities to the university.

6. No faculty member shall be twice subject to proceedings under this code for the same act. A rehearing at the direction of the president following an appeal by the faculty member is not a second hearing.

7. If a faculty member is accused of violating a rule of this code and criminal charges are also pending in the state or federal courts based upon the same or closely related acts, proceedings under this code other than interim suspension proceedings will be postponed pending disposition of the criminal charges unless the faculty member objects to such postponement.

8. Where a faculty member has been tried and convicted in the courts he shall not be subjected to proceedings under this code for the same acts unless the acts alleged raise serious questions about the faculty member's ability or willingness to meet his responsibilities to the university. Where a faculty member has been tried and acquitted, such acquittal shall be conclusively presumed to establish his innocence of the acts charged in the criminal case. As used herein, acquittal includes dismissal of charges for insufficient evidence, after trial has commenced.

PART VII

TERMINATION FOR OTHER REASONS

1. A faculty member may be terminated or may receive a contract with substantially reduced status for reasons other than violation of this code in the following situations:

   a. for medical incapacity which precludes the faculty member from performing his duties and responsibilities as teacher or faculty member.

   b. financial exigency or bona fide discontinuance of a program or department of instruction.

2. a. Proceedings to terminate or to award a contract with substantially reduced status to a faculty member for medical reasons shall be initiated by a written statement alleging medical incapacity made to the vice president for academic affairs by the faculty member's dean, department chairman, or supervisor.

   b. Within twenty days after receipt of such written allegation, the vice president for academic affairs or his delegate shall notify the faculty member thereof and inform him of his right to a conference and to be examined, at university expense, by two physicians chosen by the University Counselors Committee from lists submitted by the vice president for academic affairs and the faculty member.

   c. If the faculty member refuses or is unable to submit to medical examination or if the medical examination is made and the examiners find the faculty member to be suffering from a medical condition which could substantially and adversely affect the performance of his duties, the vice president for academic affairs or his delegate may certify the matter to the chairman of the Faculty Hearing Committee for further proceedings under Part V of this code.

3. The administration shall consult with and give consideration to advice offered by the Executive Committee of the University Senate and other appropriate bodies of the faculty prior to terminating or awarding a contract with substantially reduced status to a faculty member for financial exigency or bona fide discontinuance of a program or department of instruction.

PART VIII

APPLICABILITY

1. This code does not preclude nor does it apply to proceedings to terminate the employment of a nontenured faculty member

at the end of his contract period by non-renewal of his contract.

2. Conduct which would breach a rule of this code committed prior to the final adoption of the code shall not be a basis for proceedings under this code. Where such conduct would constitute a basis for dismissal for cause under a previously applicable regulation proceedings may be brought in accordance with such regulation.

Approved: Institutional Council, 1/13/75;
State Board of Regents, 1/27/75